IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2657 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MAHESHBHAI CHAMPAKLAL KAPADIA

Versus

GODFREY GOMES

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Appearance:

1. Criminal Misc.Application No. 2657 of 1997

MR RD DAVE for Petitioner No. 1

MR MEHUL SHARAD SHAH for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 1

Mr A J Desai, APP for Respondent No. 2

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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 08/04/2002

ORAL JUDGEMENT

Heard the learned Advocates for the parties and

Mr A J Desai, learned APP for the State of Gujarat. Looking to the petition and the allegations made in the complaint in question, the complaint is required to be quashed and set aside. It is noticed that the parties to the complaint were at contract and there is allegation of revocation of contract by consent. The civil suit is also pending before the Court and temporary injunction was also granted. It is stated that the civil suit filed between the parties for damages is also pending. This clearly leads us to believe that the dispute pending between the parties are civil in nature. In that view of the matter, it would not be very much proper for the Criminal Court to proceed ahead with the complaint in question. It transpires that the matter substantially involves civil disputes and there is hardly any involvement of criminality between the parties in this matter. In that view of the matter, it would be in the fitness of things to invoke inherent jurisdiction of this court under section 482 of the Code of Criminal Procedure, 1973 to quash the concerned criminal proceedings.

2. For the foregoing reasons, criminal misc. application no.2657/97 is allowed and criminal enquiry case no.152/97 pending before the learned Judicial Magistrate First Class, Gandhinagar is ordered to be quashed and set aside. Rule is made absolute to the aforesaid extent. D.S. permitted.

8.4.2002 [D P Buch, J.]
msp